

REMARKS

Claims 12-21 and 50-89 are pending in the above-captioned patent application following this amendment. Claims 1-49 have been rejected. Claims 1-10 and 22-49 have been cancelled without prejudice and claims 50-89 have been added by this amendment for the purpose of expediting the patent application process in a manner consistent with the goals of the Patent Office pursuant to 65 Fed. Reg. 54603 (September 8, 2000).

Support for new claims 50-89 can be found throughout the originally filed application, including the original claims and description. In particular, support for new claims 50-89 can be found in the original claims, in Figures 1A and 1B, in the specification on Pages 4-7.

No new matter is believed to have been added by this amendment. Reconsideration of the Application is respectfully requested in view of the new claims.

Interview Summary

On January 4, 2006, the undersigned attorney and the applicant, Mourad Zarouri conducted a telephonic interview with the Examiner. During the interview, the Examiner provided that the proposed new claims 56 and 57 contained allowable subject matter. In proposed new claim 56 was directed to a "sensor generates a plurality of beams positioned in a first pattern which is a specified distance away from the head-neck region of the animal and the sensor detects when one or more of the beams is interrupted by the object". Somewhat similar limitations are contained in Independent claims 69 and 88. The applicant wishes to thank the Examiner for his time and assistance.

Rejections Under 35 U.S.C. § 102

Claims 1-10, 22-31, 33-39 and 41-49 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Perlman (US 6,762,687). The applicant has cancelled claims 1-10, 22-31, 33-39 and 41-49 without prejudice by this amendment. Accordingly, this rejection is now moot.

Rejections Under 35 U.S.C. § 103

Claims 11-21, 32 and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Perlman in view of DelBiondo II et al. (US 4,965,553). The applicant has cancelled claims 11, 32 and 40 without prejudice by this amendment. The Applicant respectfully traverses the rejection of claims 12-21 on the grounds that Perlman may not be used as prior art given the ability of the Applicants to antedate this reference as more fully set forth in the declaration of inventor, Mourad Zarouri, pursuant to 37 CFR §1.131. Because the Applicant submits that Perlman does not specifically claim the features of the rejected claims, a declaration pursuant to 37 CFR § 1.131 is believed to be proper.

37 CFR §1.131 provides when “any claim of an application ... is rejected, the inventor of the subject matter of the rejected claim, ... may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based. The effective date of a U.S. Patent, ... is the earlier of its publication date or date that it is effective as a reference under 35 U.S.C. §102(e). ... (b) The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. ...”.

As set forth more fully in the accompanying declaration of Mourad Zarouri (hereinafter “Declaration of Zarouri”) and the attached exhibits, independent claim 12 was conceived of in the United States, prior to the effective U.S. application filing date of Perlman of June 20, 2002. For example, prior to June 20, 2002, Mourad Zarouri conceived of a sensor assembly for monitoring movement of an object near a head-neck region of an animal, the sensor assembly including: a sensor that detects movement of the object near the head-neck region of the animal; and a counter that monitors the number of times that the sensor detects movement of the object near the head-neck region. (Declaration of Zarouri).

Further, this invention was constructively reduced to practice at least as early as February 12, 2003 in U.S. Provisional Application Serial No. 60/446,901. (Declaration

of Zarouri).

In summary, the present invention detailed in claim 12 was conceived prior to June 20, 2002, the effective date of the Perlman coupled with due diligence from prior to said date to the filing of the provisional application on February 12, 2003.

Accordingly, the Applicant respectfully submit that the rejection of claims 12-21 should be withdrawn.

New Claims

New Claims 50-91 have been added by this amendment. These claims are of a slightly different scope than the previously pending claims. However, these claims are considered to be patentable in view of the cited references.

For example, Perlman teaches the use of a two piece, proximity detector 210 that includes one or more elements 212 and a sensor aspect 214 that senses when one or more of the elements 212 are within a specified distance of the sensor aspect 214. Both the sensor aspect 214 and the elements 212 are worn by the user. Perlman Column 6, line 41- Column 7, line 25. With Perlman, for example, to detect the movement of a hand or arm near a face of a user, a sensor aspect 214 is worn near the face and an element is worn on the hand. **With Perlman, the sensor aspect 214 does not detect the hand or arm, instead, the sensor aspect 214 detects the element worn on the hand or arm. Thus, with Perlman, a separate element is required to be worn on each of area of the body that detection is desired.**

Importantly, Perlman does not teach or disclose (i) a sensor that emits a beam and that detects when the beam is interrupted by the movement of the hand near the head-neck region of the person; (ii) a sensor that emits a plurality of beams positioned in a first pattern which is a specified distance away from the head-neck region of the person and the sensor detects when one or more of the beams is interrupted by the object, (iii) positioning a sensor that detects movement of the hand near the head-neck region, the sensor emitting a beam and detecting when the beam is interrupted by the movement of the hand near the head-neck region of the animal, and (iv) positioning a sensor that detects movement of the object near the head-neck region, the sensor emitting a plurality of beams positioned in a first pattern which is a specified distance away from the head-neck region of the person and the sensor detects when one or

more of the beams is interrupted by the object.

In contrast, Claim 50 is directed to a “sensor assembly for monitoring movement of a hand or an arm of a person near a head-neck region of the person, the sensor assembly comprising: a sensor that is positioned near the head-neck region of the person, the sensor emitting a beam and detecting when the beam is interrupted by the movement of at least one of the hand and the arm near the head-neck region of the person; and a signaling unit that generates a sensory signal that is received by the person when the sensor detects that the beam is interrupted.” These features are not taught or suggested by the cited references. Accordingly, claim 50 is believed to be patentable. Further, claims 51-59 depend directly or indirectly on claim 50. Accordingly, these claims are also considered to be patentable.

Claim 60 is directed to a “sensor assembly for monitoring movement of an object near a head-neck region of an animal, the sensor assembly comprising: a sensor that emits a beam and that detects when the beam is interrupted by the movement of the object near the head-neck region of the animal; and a counter that monitors the number of times that the sensor detects that the beam is interrupted.” These features are not taught or suggested by the cited references. Accordingly, claim 60 is believed to be patentable. Further, claims 61-68 depend directly or indirectly on claim 60. Accordingly, these claims are also considered to be patentable.

Claim 69 is directed to a “sensor assembly for monitoring movement of an object near a head-neck region of a person, the sensor assembly comprising: a sensor that emits a plurality of beams positioned in a first pattern which is a specified distance away from the head-neck region of the person and the sensor detects when one or more of the beams is interrupted by the object, the sensor being secured to the person; and a signaling unit that generates a sensory signal that is received by the person when the sensor detects that one or more of the beams is interrupted.” These features are not taught or suggested by the cited references. Accordingly, claim 69 is believed to be patentable. Further, claims 70-76 depend directly or indirectly on claim 69. Accordingly, these claims are also considered to be patentable.

Claim 77 is directed to a “method for monitoring movement of a hand or an arm of a person near a head-neck region of the person, the method comprising the steps of:

positioning a sensor that detects movement of the hand near the head-neck region, the sensor emitting a beam and detecting when the beam is interrupted by the movement of at least one of the hand and the arm near the head-neck region of the person; and generating a sensory signal that is received by the person when the sensor detects that the beam is interrupted.” These features are not taught or suggested by the cited references. Accordingly, claim 77 is believed to be patentable. Further, claims 78-82 depend directly or indirectly on claim 77. Accordingly, these claims are also considered to be patentable.

Claim 83 is directed to a “method for monitoring movement of an object near a first body region of an animal, the method comprising the steps of: positioning a sensor that detects movement of the object near the first body region, the sensor emitting a beam and detecting when the beam is interrupted by the movement of the object near the head-neck region of the animal; and counting the number of times that the sensor detects that the beam is interrupted with a counter.” These features are not taught or suggested by the cited references. Accordingly, claim 83 is believed to be patentable. Further, claims 84-87 depend directly or indirectly on claim 83. Accordingly, these claims are also considered to be patentable.

Claim 88 is directed to a “method for monitoring movement of an object near a head-neck region of a person, the method comprising the steps of: positioning a sensor that detects movement of the object near the head-neck region, the sensor emitting a plurality of beams positioned in a first pattern which is a specified distance away from the head-neck region of the person and the sensor detects when one or more of the beams is interrupted by the object, the sensor be secured to the person; and generating a sensory signal that is received by the person when the sensor detects that the one or more of the beams is interrupted.” These features are not taught or suggested by the cited references. Accordingly, claim 88 is believed to be patentable. Further, claim 89 depends claim 88. Accordingly, this claim is also considered to be patentable.

CONCLUSION

In conclusion, the Applicant respectfully asserts that claims 12-21 and 50-89 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 858-456-1951 for any reason that would advance the instant application to issue.

Dated this 10th day of January, 2006.

Respectfully submitted,



STEVEN G. ROEDER
Attorney for Applicant
Registration No. 37,227
5560 Chelsea Avenue
La Jolla, California 92037
Telephone: (858) 456-1951